IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 24TH JANUARY 2006 / 4TH MAGHA, 1927

Crl.MC.No. 651 of 2006()

CMP.9120/2005 of JUDL.MAGISTRATE OF FIRST CLASS, MAVELIKKARA
CRIME NO.352/05 OF NOORANADU POLICE STATION

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PETITIONER: PETITIONER:

M/S. ICICI BANK LTD.,
M.G. ROAD, SKYLINE CITADEL COMPLEX, K.K. ROAD,
KOTTAYAM, REPRESENTED BY ITS COLLECTION MANAGER,
JOSE ANTONY.

BY ADV. SRI.P.M.KUNJIMOIDEENKUTTY
SRI.LAL K.JOSEPH
SRI.A.A.ZIYAD RAHMAN
SMT.SHEENA SAMUEL
SMT.ROOPREKHA D.KAMATH

RESPONDENTS: RESPONDENT/2ND RESPONDENT:

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1. STATE OF KERALA,
REP. BY SUB INSPECTOR OF POLICE,
NOORNAD POLICE STATION.

2. T.G. SHOBANAN NAIR, S/O. GOPALAN,
THONIPPATTU HOUSE, PATTOR P.O., NOORNAD,
MAVELIKKARA.

BY ADV. SRI.PHILIP M.VARUGHESE
SRI.V.SETHUNATH
PUBLIC PROSECUTOR SMT.LATHA

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 24/01/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.651 of 2006

Dated this the 24th day of January 2007

O R D E R

The petitioner is a bank which had advanced money to the second respondent to enable him to purchase a second hand vehicle. That vehicle was allegedly thieved by someone and Crime No.352/05 under Sections 379,447 and 34 I.P.C was registered by the police. The vehicle was subsequently seized by the police. The seizure was reported to the court. The vehicle is now in the custody of the court.

2. The petitioner has a case that he has the right to seize the vehicle and dispose of the same, in accordance with law, as the conditions of the loan have been violated by the second respondent. The petitioner went before the learned Magistrate with the prayer that the vehicle may be released to the petitioner and he may be permitted to take recourse to the procedure of disposing of the vehicle and applying the proceeds to the loan account of the second respondent. The learned Magistrate, by the impugned order, rejected the said request and dismissed the application. The petitioner, claiming to be aggrieved by the said

order, has come before this court now, repeating the request which he made before the learned Magistrate.

3. The second respondent had entered appearance. The learned counsel for the second respondent submits that the second respondent has no objection in the vehicle being released to the petitioner subject to appropriate conditions. The learned counsel only prays that the second respondent may thereafter be permitted to settle the accounts with the petitioner within a period of one month and then get the vehicle released from the petitioner. There is no other claimant for the vehicle. The second respondent is the registered owner of the vehicle also. I am satisfied, in these circumstances that, as agreed by both sides, this Criminal Miscellaneous Case can be allowed and appropriate directions can be issued.

4. The vehicle in question shall be released to the petitioner by the learned Magistrate on condition that he executes a bond for such value as may be fixed by the learned Magistrate. He shall agree to produce the vehicle or the bond amount as and when directed. The petitioner shall keep the vehicle in the same condition in which it is handed over to the

petitioner for a period of one month from the date of such release, during which period it shall be open to the second respondent to discharge the liability of the loan account with the petitioner and claim release of the vehicle. If, within a period of one month, the second respondent does not discharge the liability and claim release, the petitioner shall be at liberty to dispose of the vehicle subject to the obligation under the bond to pay the bond amount before court, if so directed later on. These terms are agreed upon by both sides.

Hand over copy of this order to the learned counsel for the petitioner.

(R.BASANT, JUDGE)

jsr

R.BASANT, J

C.R.R.P.No.

ORDER

21ST DAY OF JULY 2006